

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST  
LITIGATION

Civil No. 0:18-cv-01776 (JRT)(HB)

This Document Relates to:

All Consumer Indirect Purchaser Actions

**DECLARATION OF DANIEL E. GUSTAFSON IN SUPPORT OF HAGENS  
BERMAN SOBOL SHAPIRO LLP AND GUSTAFSON GLUCK PLLC'S  
MOTION FOR APPOINTMENT AS INTERIM CO-LEAD COUNSEL FOR  
PROPOSED CONSUMER INDIRECT PURCHASER CLASS**

I, Daniel E. Gustafson, declare:

1. I am an attorney licensed to practice in the State of Minnesota and have been admitted to practice in several courts, including in this Court. I am a founding member of the firm Gustafson Gluck PLLC, attorneys of record for the proposed class of Consumer Indirect Purchaser Plaintiffs in the above-entitled matter. I make this declaration in support of Hagens Berman Sobol Shapiro LLP and Gustafson Gluck PLLC's Motion for Appointment as Interim Co-Lead Counsel for Proposed Consumer Indirect Purchaser Class.

2. I have personal knowledge of the facts in this declaration and could competently testify to them if called as a witness.

3. Attached as Exhibit A is a true and correct copy of Gustafson Gluek's firm resume.

### **Litigation History**

4. On June 28, 2018, Gustafson Gluek and Hagens Berman filed the first case in this matter, *Duryea et al. v. Agri Stats, Inc., et al.*, Case No. 18-cv-01776 (D. Minn) ("*Duryea*"), alleging Defendants colluded to artificially raise and maintain the price of pork sold in the United States in violation of Section One of the Sherman Act, 15 U.S.C. § 1, as well as, the antitrust laws, unfair competition laws, consumer protection laws, and unjust enrichment common laws of several states. The *Duryea* action was brought on behalf of all persons and entities who indirectly purchased pork from Defendants or co-conspirators for personal use in the United States during the Class Period (the "Consumer Indirect Purchaser Class").

5. Gustafson Gluek and Hagens Berman subsequently filed four additional Consumer Indirect Purchaser actions. In addition to the five Consumer Indirect Purchaser actions, seven actions were filed on behalf of Direct Purchaser Plaintiffs, and two were filed on behalf of Commercial and Indirect Purchaser Plaintiffs.<sup>1</sup>

6. On September 21, 2018, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the Court separately consolidated for pretrial purposes the cases brought on behalf of each of the proposed classes (i.e., all Direct Purchaser Plaintiff actions were consolidated into one group, all Commercial and Institutional Purchaser Plaintiff actions

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<sup>1</sup> A complete list of cases filed is contained in the Court's Initial Case Management Order at 4-5, Dkt. No. 85, September 21, 2018.

were consolidated into a second group, and all Consumer Indirect Purchaser Plaintiff actions were consolidated into a third group).<sup>2</sup>

7. The Court also indicated that it would consider petitions to appoint interim co-lead counsel under Rule 23(g)(3) for each of the three Plaintiff Groups. Gustafson Gluek and Hagens Berman seek to be appointed interim co-lead counsel for the Consumer Indirect Purchaser Class.

**Hagens Berman and Gustafson Gluek Filed the First Action in this Matter After a Thorough and Comprehensive Investigation**

8. Gustafson Gluek and Hagens Berman, filed the first complaint, on behalf of any class, on June 28, 2018. The allegations in the *Duryea* complaint were based on an extensive investigation into the pork industry, including economic pricing analysis and review of historic statements in the pork industry.

9. Gustafson Gluek and Hagen's Berman investigatory efforts included: reviewing and analyzing historical statements of Agri Stats to the pork industry; reviewing historical statements, reports, and earnings call transcripts of Defendants to identify critical admissions regarding communications between industry participants and coordinated declines in supply; retaining and working with economists to identify critical factors in the pork market which made it more susceptible to collusion and to analyze relevant pricing data in the pork market; and researching and determining the appropriate entities to name as Defendants.

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<sup>2</sup> *Id.*

10. This investigation was undertaken without a parallel investigation by the U.S. Department of Justice or any other competition authority, and prior to the filing of an action by any other plaintiff alleging anticompetitive conduct in the pork industry.

11. The firms' initial investigation culminated in the filing of the *Duryea* complaint. The firms continued their investigation and filed, along with several other firms, four additional Consumer Indirect Purchaser Plaintiff actions and, ultimately, a Consolidated Class Action Complaint.<sup>3</sup>

12. As additional complaints were filed by Direct Purchaser Plaintiffs and Commercial and Institutional Purchaser Plaintiffs, Gustafson Gluek and Hagens Berman reached out to coordinate with all plaintiff groups in an effort to efficiently and effectively represent the interests of the plaintiffs.

13. Gustafson Gluek, Hagens Berman, and counsel for the Direct Purchaser Plaintiffs and Commercial and Institutional Purchaser Plaintiffs have worked cooperatively to coordinate with Defendants on several issues, including: service of the complaints on Defendants; the timing of Defendants' response to the consolidated amended complaints; preservation of relevant ESI and documents; a proposed initial case management order; a proposed Protective Order; a proposed ESI Protocol; and a proposed Order Regarding the Disclosure of Information.

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<sup>3</sup> See *Duryea* Dkt. No. 74.

**All Consumer Indirect Purchaser Counsel Support the Appointment of Gustafson Gluek and Hagens Berman as Co-Lead Counsel**

14. Gustafson Gluek and Hagens Berman have the unanimous support of all firms who have filed actions on behalf of Consumer Indirect Purchaser Plaintiffs. Each of these firms has considerable experience in prosecuting class actions and, in their own right, would be qualified to lead this case. The support of these highly qualified firms speaks to the significant contributions Gustafson Gluek and Hagens Berman have made to this litigation.<sup>4</sup>

**Gustafson Gluek and Hagens Berman Have Extensive Antitrust and Complex Litigation Experience and Are Highly Qualified to Serve as Co-Lead Counsel**

15. Gustafson Gluek and Hagens Berman are both highly respected firms with extensive experience leading antitrust and other complex litigation. The qualifications of each firm, and the team of attorneys from each that will prosecute this action, are detailed in each firm's respective resumes.<sup>5</sup>

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 28, 2018, at Minneapolis, Minnesota.

/s/ Daniel E. Gustafson  
Daniel E. Gustafson

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<sup>4</sup> All counsel of record, as reflected in the signature block on the Consumer Indirect Purchaser Plaintiff Consolidated Class Action Complaint, *Duryea* Dkt. No. 74, support the appointment of Gustafson Gluek and Hagens Berman as co-lead counsel.

<sup>5</sup> See Gustafson Gluek's firm resume attached hereto as Ex. A; Hagens Berman's firm resume attached as Ex. A to the Declaration of Steve W. Berman in Support of Hagens Berman Sobol Shapiro LLP and Gustafson Gluek PLLC's Motion for Appointment as Interim Co-Lead Counsel for Proposed Consumer Indirect Purchaser Class.